



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,167	06/26/2001	Andy L. Ruse	2207/11666	1366
25693 7590 07/02/2008 KENYON & KENYON LLP RIVERPARK TOWERS, SUITE 600 333 W. SAN CARLOS ST. SAN JOSE, CA 95110				
EXAMINER				
JOO, JOSHUA				
ART UNIT		PAPER NUMBER		
2154				
MAIL DATE		DELIVERY MODE		
07/02/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

09/891,167

## Applicant(s)

RUSE ET AL.

## Examiner

JOSHUA JOO

## Art Unit

2154

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-8, 10-14 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-8, 10-14 and 16-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Detailed Action***

1. This Office action is in response to communication dated 03/20/2008.

Claims 1-2, 4-8, 10-14, 16-18 are presented for examination.

**Response to Arguments**

2. Applicant's arguments filed 03/20/2008 have been fully considered but they are not persuasive.

Applicant argued that:

3. (1) Horvitz does not disclose the feature of "a user override location that indicates probabilities of successful contact for each location are to be ignored and the override location is to be used for contact" anywhere.

4. In response, Examiner respectfully disagrees that Horvitz does not teach the feature. Horvitz teaches,

i) "The store 302 stores notification parameters for a user, such as the default notification preferences for the user, as a user profile, which can then be edited and modified by the user. The store 302 can be considered as that which stores information on parameters that influence how a user is to be notified. The user context module 304 determines a user's current context, based on the context information sources 306 as published to the whiteboard 307; the user context profile store 305 stores the context parameters for a user, such as the default context settings for the user, which can be edited and modified by the user." (Paragraph 0063)

5. According to the above passage i, Horvitz teaches that a user profile comprising context information, which can be edited by a user, influences the location that is used for contacting the user.

Regarding a user profile, Horvitz further teaches,

ii) "Furthermore, in one embodiment, the notification manager 204 accesses information stored in a user profile by the user mechanism 202 in lieu of or to support a personalized decision-theoretic analysis. For example, the user profile may indicate that at a given time, the user prefers to be notified via a pager, and only if the notification has a predetermined importance level. Such information can be used as a baseline from which to start a decision-theoretic analysis, or can be the only manner by which the manager 204 determines how and whether to notify the user." (Paragraph 0055)

iii) "Notification preferences can also provide policies that are employed in lieu of the decision-theoretic analysis, as has been described in the previous sections of the detailed description.

Based on this determination, the notification manager conveys the notifications to the sinks in 10." (Paragraph 0080)

6. According to the above passages ii and iii, the user profile is used to determine which location is to be used for contacting a user. The user profile can indicate that a specified location is be used to contact the user. Therefore, by using a specified location, the user is not contacted by using probabilities of successful contact for each location. Furthermore, Horvitz teaches that the user may specify a prefer contact location, and the user specified location is used in lieu of a decision-theoretic analysis that determines the probabilities of successful contact for each location. Therefore, the probabilities of successful contact for each location are ignored.

#### **Claim Rejections - 35 USC § 112**

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 14, 16-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 14, 16-18, the terms "The computer program" has insufficient antecedent basis.

#### **Claim Rejections - 35 USC § 103**

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-2, 4-5, 7-8, 10-11, 13-14, 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz et al, US Publication #2007/0011314 (Horvitz hereinafter), in view of Foladare et al. US Patent #6,311,210 (Foladare hereinafter).

11. As per claims 1 and 13, Horvitz teaches substantially the invention as claimed including a method and article of manufacture for forwarding messages, comprising:

monitoring locations of “activities” along with the time of day and day of week (Paragraphs 0026; 0028; 0048. Discern user location. Observe user location and activities time of day and day of week.);

storing “activities” along the associated time of day and day of week in a database (Paragraph 0026; 0028. Store user context information regarding location and activities per time of day and day of the week.);

performing a statistical trend analysis on a user basis to determine a probability of contacting the user for a given time of day and day of week at a given location (Paragraph 0027. Infer parameters that indicate likelihood user is in different locations. Paragraph 0028. Use statistical model to determine likelihood user is in a state. Paragraph 0053. Performs analysis on information provided by sinks including user’s location. Paragraph 0064. Probabilistic inference/profile.);

storing a trend analysis table the result of the statistical trend analysis performed (Paragraphs 0028; 0039-0010; 0063. User context profile used to make decisions. Store priori about user location and user activity. Paragraph 0063. User context profile store captures information such as deterministic or probabilistic profile.); and

transferring incoming messages to the location in the trend analysis with the highest probability of contacting the user (Paragraph 0040. Determine best device for relay notification. Paragraph 0063. Best guess about user context information.), wherein said trend analysis table further comprises a user override location that indicates possibilities of successful contact for each location are to be ignored and

the override location is to be used for contact (Paragraphs 0055; 0063; 0080. User profile comprising context information can be edited by the user. The user profile determines where to send notifications including sending instead of the decision-theoretic analysis.).

12. Horvitz teaches of monitoring locations of activities but does not specifically teach the activities to include responses to incoming messages.

13. Foladare teaches of sending messages to devices and monitoring access of incoming messages by a device (col. 3, lines 56-60; col. 5, line 66-col. 6, line 7.).

14. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the monitoring of activities as taught by Horvitz to include monitoring response to messages as taught by Foladare. The motivation for the suggested combination is that Foladare's teachings of monitoring access of incoming messages would provide a specific activity for determining and monitoring the user's location and activity. Foladare's teachings would also provide message/notification sending based on the type of user device (col. 3, lines 45-53).

15. As per claim 7, Horvitz teaches substantially the invention as claimed including a system for forwarding messages, comprising:

A server comprising a computer storage medium (Paragraph 0028; claim 1. System to stored information.);

a monitoring module stored on the computer storage medium to monitor "activities" by users and store the location of the response with a time stamp in a database (Paragraphs 0026; 0028; 0048. Discern user location. Paragraph 0026; 0028. Store user context information regarding location and activities per time of day and day of the week. Paragraph 0081. Users);

a trend analysis module stored on the computer storage medium to perform a statistical probability analysis on the location and time stamp data in the database and determine the probability of

contacting the user at each of a plurality of locations for a given time of day (Paragraph 0027. Infer parameters that indicate likelihood user is in different locations. Paragraph 0028. Use statistical model to determine likelihood user is in a state. Paragraph 0053. Performs analysis on information provided by sinks including user's location. Paragraph 0064. Probabilistic inference/profile.) and storing the probability of contacting the user at each of a plurality of locations in a trend analysis table (Paragraphs 0028; 0039-0040; 0063. User context profile store used to make decisions. Store priori about user location and user activity. Paragraph 0063. User context profile store captures information such as deterministic or probabilistic profile.); and

a forwarding module stored on the computer storage medium to receive an incoming message and forward the incoming message to a location with the highest probability of contacting the user as designated in the trend analysis table (Paragraph 0040. Determine best device for relay notification. Paragraph 0063. Best guess about user context information.), wherein said trend analysis table further comprises a user override location that indicates possibilities of successful contact for each location are to be ignored and the override location is to be used for contact (Paragraphs 0055; 0063; 0080. User profile comprising context information can be edited by the user. The user profile determines where to send notifications including sending instead of the decision-theoretic analysis.).

16. Horvitz teaches of monitoring locations of activities but did not specifically teach the activities to include responses to messages received.

17. Foladare teaches of monitoring access of incoming messages by a device (col. 3, lines 56-60; col. 5, line 66-col. 6, line 7).

18. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the monitoring of activities as taught by Horvitz to include monitoring response to messages as taught by Foladare. The motivation for the suggested combination is that Foladare's teachings of monitoring access of incoming messages would provide a specific activity for

determining and monitoring the user's location and activity. Foladare's teachings would also provide message/notification sending based on the type of user device (col. 3, lines 45-53).

19. As per claims 2, 8 and 14, Horvitz teaches the invention of claims 1, 7 and 13, wherein said trend analysis table comprises a user identification, a plurality of times a day and days of week with locations of contact and probabilities of successful contact associated with each locations (Paragraphs 0026; 0065. User profile can be of locations and activities per the time of day and day of the week. Paragraph 0027. Infer likelihood user is in different locations. Paragraph 0040. Determine best device for relay notification. Paragraph 0063. Probabilistic profile).

20. As per claims 4, 10, and 16, Horvitz and Foladare taught the invention defined in claims 3, 9, and 15. Horvitz further teaches the invention of wherein the incoming messages and responses are from PSTN telephone, cellular telephone, pager, fax, voice mail, e-mail or other voice or digital communication format (Paragraph 0030. Email. Paragraphs 0021; 0038. Cell phone).

21. As per claim 5, 11, and 17, Horvitz and Foladare taught the invention defined in claims 4, 10, and 16. Horvitz further teaches the invention where the invention further comprises of checking the user override location in the trend analysis table and transmitting the incoming message to the user override location when set (Paragraph 0063. User context store can be edited and modified by the user. Paragraphs 0079-0080. User context information determines which device to send notification based on parameters of the user.).

22. Claims 6, 12, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz and Foladare, in view of Singh, US Patent #6,405,035 (Singh hereinafter).



23. As per claims 6, 12, and 18, Horvitz teaches the invention of claims 4, 10, and 16 comprising: contacting the user at the location with the highest probability of successful contact associated with the location. (Paragraph 0040. Determine best device for relay notification. Paragraph 0063. Best guess about user context information.). Horvitz does not specifically teach of contacting the user at the location with second highest probability of success when unable to contact the user at the location with the highest probability of success.

24. Singh teaches a similar system comprising of contacting a second ranked device when unable to contact the user at a device with the highest probability of success (col. 6, lines 8-14. If the subscriber doesn't access the message of the first device, the message is send to the next ranked device.).

25. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the suggested system with the teachings of Singh to contact a second ranked device when unable to contact the user at a device with the highest probability of success. The motivation for the suggested combination is that Singh's teachings would increase the possibility that the user receives a message by forwarding the message to more than one device and ensure that the client receives the message (col. 6, lines 14-17).

### **Conclusion**

26. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action

is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Joo whose telephone number is 571 272-3966. The examiner can normally be reached on Monday to Friday 7 to 4.

28. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571 272-1915. The fax phone number for the organization where this application or proceeding is assigned 571-273-8300.

29. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/J. J./  
Examiner, Art Unit 2154

/Nathan J. Flynn/  
Supervisory Patent Examiner, Art Unit 2154